



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/846,266	05/02/2001	Muneomi Katayama	TESJ.0029	6117

7590 12/16/2003
REED SMITH HAZEL & THOMAS LLP
Suite 1400
3110 Fairview Park Drive
Falls Church, VA 22042

EXAMINER

SAADAT, CAMERON

ART UNIT PAPER NUMBER

3713

DATE MAILED: 12/16/2003

16

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/846,266

Applicant(s)

KATAYAMA, MUNEOMI

Examiner

Cameron Saadat

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Art Unit: 3713

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/22/03 has been entered. Claims 1-22 are pending in this application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-16, and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Ahlgren (USPN 6,293,802 B1) in view of Fishman et al. (US Patent Application Publication 2002/0064764 A1; hereinafter Fishman).

Regarding claim 1, Ahlgren discloses a body movement training method comprising: storing lessons comprising images of at least one trainer in a server 112 (Col. 6, lines 21-28; Col. 15, lines 5-10); providing mobile image communication (Col. 22, lines 50-56) between a trainee and a server (See Fig. 1, refs. 104 and 112); taking at least one image of the trainee at a training or sport site 104; searching the server for a lesson comprising at least one of the images of the trainer with a corresponding movement to the image of the trainee based upon a request of the trainee sent via a mobile phone communication

Art Unit: 3713

terminal 1628 (Col. 22, lines 50-56) to the server 112 (Col. 12, lines 30-34); sending the searched lessons that comprise images of the trainer (Col 7, lines 15-37) to the mobile phone terminal 1628; displaying side by side the searched image of the trainer and the image of the trainee on the mobile phone terminal (Col. 15, lines 5-18), wherein the image communication terminal is implemented by a mobile network system, and Internet (Col. 22, lines 50-56).

Although the computer system 1602 is mobile in terms of communications (wireless), it is not explicitly stated that the system is *portable*. However, Fishman discloses a system for providing golf instruction over a network 166 to computer terminal 130 (see ¶ 41), wherein the system may be configured to be *portable* (see ¶ 79). Hence, in view of Fishman it would have been obvious to an artisan to modify the computing system described in Ahlgren by providing a *portable* computing system thereby allowing a golfer to readily transport multimedia analysis equipment so that data capture of a golfer's swing may be commenced at various locations such as golf course fairways, pro shops, or trade shows (See Fishman ¶ 79).

In addition, the fact that a claimed device is *portable* or movable is not sufficient by itself to patentably distinguish over an otherwise old device unless there are new or unexpected results. In re Lindberg, 194 F.2d 732, 93 USPQ 23 (CCPA 1952)

Regarding claim 2, Ahlgren discloses a body movement training method, wherein the images are displayed side-by-side on the same screen of the mobile image communication terminal without being overlapped for comparison and training (column 15, lines 5-18).

Regarding claims 3 and 4, Ahlgren discloses a body movement training method further comprising sending an image of the trainee to the server for storing (Col. 6, lines 21-26);

searching for and requesting a lesson plans (Col. 12, lines 30-34) that comprise images of a trainee (Col 7, lines 15-37) to be compared and examined for difference between actions.

Regarding claims 5-8, Ahlgren discloses a body movement training method wherein one of the images of the trainer and the trainee comprises a set of moving frames, and the other of the images is a still image (column 15, lines 7-10).

Art Unit: 3713

Regarding claims 9-16 and 22, Ahlgren discloses a body movement training method wherein the images of the trainee and of the trainer are taken at substantially the same place (Col 3, lines 20-30).

Regarding claim 20, Ahlgren discloses a body movement training method wherein the displaying stem includes displaying at least one of letters and symbols requested by the trainer to make a training point (Col. 14, lines 61-67).

Regarding claim 21, Ahlgren discloses a body movement training method wherein the images of the trainee are taken at different places (Col 15, lines 24-29).

Claims 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ahlgren (USPN 6,293,802 B1) in view of Fishman et al. (US Patent Application Publication 2002/0064764 A1; hereinafter Fishman), further in view of Katayama (USPN 5,857,855)

Regarding claim 17, the combination of Ahlgren and Fishman discloses all of the claimed subject matter with the exception of explicitly disclosing that the image of the trainee before a training session is compared to an image of the trainee after a training session. However, Katayama teaches a method of teaching body motions wherein a pre-training image is placed side-by-side with a post-training image of the trainee (Col. 5, line 63 – Col 6, line 9). It would have been obvious to a person of ordinary skill in the art to modify the improvement analysis method described in the combination of Ahlgren and Fishman, by providing side-by-side pre and post training images, in light of the teachings of Katayama in order to determine how much improvement has taken place or how much and what type of improvement is needed in the training process.

Regarding claims 18 and 19, the combination of Ahlgren and Fishman discloses all of the claimed subject matter with the exception of explicitly disclosing displaying a grid (as per claim 18) with an image of a trainee or providing lines as moving body parts (as per claim 19). However, Katayama teaches a method of teaching body motions wherein a grid and reference lines are utilized when analyzing images (See Fig. 9a-c; 10a-d). It would have been obvious to an artisan to modify the image analysis methods described in Ahlgren and Fishman, by providing grids and lines during image analysis, in light of the teachings of Katayama in order to provide reference points and linear diagrams to help the trainee understand correct body movement.

Art Unit: 3713

Response to Arguments

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

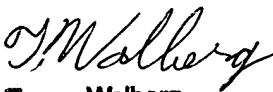
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is 703-305-5490. The examiner can normally be reached on M-F 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa J Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

CS
CS


Teresa Walberg
Supervisory Patent Examiner
Group 3700